

Exhibit 2

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
MCALLEN DIVISION**

TEXAS BANKERS ASSOCIATION; and RIO
BANK, MCALLEN, TEXAS

Plaintiffs,

v.

Case No: 7:23-cv-00144

CONSUMER FINANCIAL PROTECTION
BUREAU; and ROHIT CHOPRA, in his official
capacity as Director of the Consumer Financial
Protection Bureau,

Defendants.

SUPPLEMENTAL DECLARATION OF FORD SASSER

In accordance with 28 U.S.C. § 1746, Ford Sasser offers the following supplement to his declaration executed on May 12, 2023, and delivered to the Court as part of the First Amended Complaint filed on May 14, 2023:

1. I, Ford Sasser, repeat and aver ¶¶ 1 through 12 of my prior Declaration with the exceptions, noted below, updating Rio Bank's costs spent to date for preparing to implement the CFPB's new Final Rule and revising our estimates moving forward for both preparing to implement the CFPB's new Final Rule and for implementing it.

2. At my request, our Executive Vice President for Loan Administration has now completed detailed cost estimates for what Rio Bank will spend both in implementing and preparing to implement the Final Rule based on what we know at this time. I have personally reviewed those numbers with our EVP and they accurately reflect what Rio Bank expects to pay over the next 18 months (with most of the costs taking place in the

next 6-12 months) in preparing to begin implementation of the Final Rule. The costs are higher than originally predicted. *See* Exhibit A, attached.

3. Once we begin following the Final Rule, just the extended time required with each loan applicant (assuming just one extra hour to collect the data and one hour to input the data) will cost the Bank over \$40,000/year. And this does not include the cost of hiring additional employees needed to implement the Final Rule.

4. But before even reaching that point, there are substantial costs that will need to be spent over the next 18 months to ensure that Rio Bank is prepared to implement the Final Rule in a timely manner.

5. Per the guidance set forth in the Final Rule, Rio Bank will begin collecting data on January 1, 2025. 88 Fed. Reg. 35150, 35533 (May 31, 2023) (§ 1002.114—Special Transition Rules). This date is earlier than the posted compliance date in the Final Rule, but the CFPB provided that banks may begin collecting the profiling information 12 months ahead of time in order to ensure that they are able to correctly collect and report the data by the dates in the Final Rule. That “optional” compliance period is absolutely necessary to prevent mistakes from being made once the compliance period actually begins and Rio Bank would be irresponsible not to begin attempting to follow the Final Rule during that time. Indeed, that is precisely why the CFPB is allowing banks to begin implementing the Final Rule ahead of the posted compliance date.

6. Since the Final Rule was released, one mid-level staff person has already devoted more than half of their employment hours just ensuring the Bank understands what is necessary to meet the compliance schedule under the Final Rule. So far, that cost is \$8,820

and will only increase as Rio Bank prepares to begin collecting demographic information on its loan customers.

7. Additionally, one executive-level employee has spent more than 20 hours thus far researching and preparing to implement the Final Rule. That cost is only around \$1,200 but we expect it to increase significantly during the next 6-12 months as we prepare to begin collecting demographic data on our customers in accordance with the Final Rule.

8. As of this date, our bank has also assigned four of its employees to attend seminars to further understand and begin preparations to comply with the Final Rule.

9. Employee feedback from these sessions indicate that as many new operational questions are being raised as are being answered. Among these questions are:

- How can banks avoid enforcement action if customers do not desire to divulge their demographic information?
- What is the interplay between 1071 and existing financial regulations that may create duplicative and/or conflicting processes for banks?
- How can banks avoid enforcement action if application approval rates or rates of denials, incomplete, or withdrawn applications differ from peers?

10. In light of these types of questions—both technical and fraught with pitfalls for unsuspecting banks—as well as the unknown logistics that will be involved with collecting the required data, it is clear that our bank must continue preparing and training employees now in order to be ready to implement the Final Rule competently and on schedule. (And, as noted previously, Rio Bank is “fully covered” by the Final Rule—the bank made 333 qualifying loans in 2021, 365 in 2022, and currently projected to make 276 in 2023.)

11. The scope of the Final Rule will cause approximately 50 of our 200 employees to go through new compliance training. The two departments of the Bank most affected by the Final Rule will be Loan Administration and Lending. For our Loan Administration staff, the preparation costs for training will approach \$47,000. The costs of training our Lending staff—including the frontline employees who will be responsible for collecting the demographic data of our customers—will be just over \$65,000.

12. Combined, then, the *known* costs for training and implementation will be approximately \$112,000 before we begin to implement the Final Rule, much of which will be spent in the next 12 months. This does not include the software that will be necessary to carry out the Final Rule or the additional personnel that will be required to monitor and verify data collection (individuals who must be hired and trained prior to Rio Bank beginning to collect data on its customers).

13. I have now personally attended two state and national trade association meetings devoting time to the requirements of the Final Rule (with substantial costs associated with my attendance).

14. At these meetings and on other occasions, I have begun inquiring about the need to develop the software and an application for loan origination that will be able to track all of the additional information the Final Rule requires.

15. We have been told by the Compliance Alliance—a third-party compliance service offered by the Texas Bankers Association that Rio Bank is a member of and uses—that the software and related expenses of melding this extensive new data collection and reporting system into the bank's core computer system will be at least \$60,000 (and likely much

more) in addition to per-use fees for running the software on each loan application. That cost is also exclusive of the internal training time also involved.

16. The costs of purchasing the software and training on it will all be spent prior to Rio Bank's planned implementation date of January 1, 2025. That amounts to an additional \$100,000 that will be spent in the next 12-18 months (as soon as the Bank is able to determine which software application should be used).

17. In addition to the cost of the software itself, there will also be a cost to Rio Bank in the time spent by our executive leadership in researching, vetting, and deciding on the right software to use from among the FinTech vendors that will make such programming available. From past experience, we expect that cost to also be substantial—the time spent by our executive level employees alone in the process will be in the thousands of dollars.

18. In sum, Rio Bank has now spent just over \$10,000 in 2023 preparing to implement the Final Rule, including approximately \$7,000 during the time (May through July 2023) since my last declaration.

19. And we now estimate that the cost of employee and supervisory time alone for the remainder of this year will be in excess of \$45,000.

20. These costs will only rise over the next 12-18 months. Moreover, as part of the Final Rule, we have now come to learn that we will also need to employ additional compliance officers who can verify the biographical data the CFPB seeks without knowing the specifics of the loan at issue. These are additional employees who must be located, hired, and trained in the next 12-18 months.

21. Moreover, an added complication and cost which we have come to appreciate is the immediate negative impact the Final Rule has caused with respect to absorbing the time of our small business lending officers who would otherwise be servicing existing customers and generating new economic activity through community lending. Those lost monies—though unknown at present—are another real and immediate cost to Rio Bank that will be unrecoverable.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on July 25, 2023.

DocuSigned by:
Ford Sasser
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Ford Sasser

Exhibit A



Section 1071 Supplemental Details - Cost Breakdown Estimate

Estimated Costs to Date:

A: mid level employee

* Time reading and researching: Started April 10th 1/2 days through current as needed.

** Creat reports from Core System (needed this data to determine Rio Bank's Tier Group) and created a Data Collection Worksheet

*	70 days	4	hr/day	280 hours	X	\$	22.50	\$	6,300.00	
**	14 days	8	hr/day	112 hours	X	\$	22.50	\$	2,520.00	\$ 8,820.00

B: executive level employee

Time reading and researching off and on as time permit - spent approximately

22 hours	X	\$	53.84	\$	1,184.48	\$ 1,184.48
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Training: Webinar watched by 4 employees (Carol, Mary, Veronica & Lina)

4 Employees attended:	1 hour	X	\$	150.00	\$	150.00	\$ 150.00
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\$ 10,154.48

Future Cost Estimate by Division:

Loan Administration (back-office)

- Training in Compliance and Regulatory requirements;
Read and Research: CFPB 12 CFR Part 1002; Smally Business Lending under the Equal Credit Opportunity Act (Reg B); a total of 885 pages
- Webinar training updates for selected Loan Administration staff ;
- In-House training to include collecting new data from applicant, completing new Data Collection Worksheet, changes in the application process and learning new terminology;
- Write Loan Policy, Loan Procedures and Guidelines
- Research desired software to help process, maintain and submit new data;
- Research the integration of multiple software systems needed to gather data (includes geocoding);
- Training to understand where HMDA, ECIP and 1071 overlap;
(ie. A HMDA loan cannot also be a 1071, but they can both be a ECIP loan; potentially have extra GMI's)
- Loan Administration for data submission and analysis

	Est. # of hours	Hourly rate:	Cost Est:
Level I:	520	\$ 22.50	\$ 11,700.00
Level I:	650	\$ 53.84	\$ 34,996.00

\$ 46,696.00

Training Lending Staff: (front-line)

- General Compliance and Regulatory requirements;
- In-House training to include collecting new data from applicant, completing new Data Collection Worksheet, changes in the application process and learning new terminology;
- Webinar training updates for all frontline Lending Staff ;
- Training to understand where HMDA, ECIP and 1071 overlap;

	Est. # of hours	Hourly rate:	# of Employees:	Cost Est:
Loan Assistant	60	\$ 21.00	15	\$ 18,900.00
ARM:	45	\$ 26.00	3	\$ 3,510.00
Loan Officer:	45	\$ 56.00	17	\$ 42,840.00
				\$ 65,250.00

Extend time with each applicant (front -line):

- Time will increase by approximately 1 hour to gather data per applicant and answer questions
- Time will increase by approximately 1 hour to complete the Data Collection Worksheet (81 points)

Estimated # of Loans Originated in the month of May 2023: We estimated that out of 84 loans booked, 24 would be subject to 1071; using these numbers that would be 28.57% rounded to 30%.

Therefore, in the example below 24 Originated loans would be subject to 1071 in a **one month** period:

	1071 loans:	Hourly rate:	Cost Est:
Loan Assistant	<u>24</u>	\$ 21.00	\$ 504.00
ARM:	<u>24</u>	\$ 26.00	\$ 624.00
Loan Officer:	<u>24</u>	\$ 56.00	\$ 1,344.00
			\$ 2,472.00
			X 12 months
		annual cost estimate:	\$ 29,664.00

Since this data is also obtained at time of application and would apply to **Loans Denied, Withdrawn and Incomplete** in the month of May 2023: We estimated that **11** would be subject to 1071. Out of those 11 loans 2 are also HMDA applicable and would not be reportable. The 9 remaining would be used to estimate 1071 reportable transactions.

Therefore, in the example below **9** Denied, Withdrawn and Incomplete Loans would be subject to 1071 in a **one** month period:

	1071 loans:	Hourly rate:	Cost Est:
Loan Assistant	<u>9</u>	\$ 21.00	\$ 189.00
ARM:	<u>9</u>	\$ 26.00	\$ 234.00
Loan Officer:	<u>9</u>	\$ 56.00	\$ 504.00
			\$ 927.00
			X 12 months
		annual cost estimate:	\$ 11,124.00
			Total Estimated Cost:
			\$ 40,788.00

Training our Board of Directors

- Non-Compliance

Vendor and Integration Software Costs to upgrade or purchase new; vendors are not yet prepared and cost is unknown.

Personnel - additional personnel will be required to monitor and verify data collection; currently unknown